

REMARKS

This Amendment is submitted in response to the Office Action dated November 6, 2003. In the Office Action, Claims 1, 5, 13 to 16, 18 and 21-23 are rejected under 35 U.S.C. § 102(a). Applicants respectfully submit that the anticipation rejections have been overcome or are not proper and therefore should be withdrawn for at least the reasons set forth below.

More specifically, Claims 1, 5, 18, and 21-23 stand rejected under 35 U.S.C. § 102(b) as allegedly being unpatentable over *Smith*. Independent Claims 1, 18 and 21, the sole independent claims from the group, have been amended to clarify the pet food container includes a single housing. Claims 1, 18 and 21 have also been amended to clarify that the second pet food is disposed in a substantially similar horizontal plane to the first pet food as opposed to a vertical arrangement wherein one pet food is on top of another.

Claim 1 relates to a pet food container. The pet food container includes a single housing. Within the housing, there is a first pet food and a second pet food which is separated from the first pet food and in a substantially similar horizontal plane to the first pet food. The container includes a lid removably attached to the housing and constructed and arranged so that the removal of the lid causes at least portions of the first and second pet foods to contact each other when the lid is removed from the housing.

Claim 18 relates to a method for manufacturing a pet food container for producing a single container housing separated first and second pet foods. The container has a removable lid that automatically places at least a portion of the first and second pet foods into contact when the lid is removed. The container has a bowl housing the first and the second pet food is in a substantially similar horizontal plane to the first pet food. The bowl is suitable for serving the contacted first and second pet foods.

Claim 21 relates to a method for providing a pet food which provides a single container housing separated first and second pet foods. The container has a removable lid that causes at least portions of the first and second pet foods to contact each other when the lid is removed. The container has a bowl housing the first and second pet foods. The second pet food is disposed in a substantially similar horizontal plane to the first pet food. The bowl is suitable for serving the pet foods. The bowl is suitable also for opening the container and serving the pet foods to a pet.

In contrast, the pet food container in *Smith* provides two separate, detachable housings for the two types of pet food. The pet food in *Smith* is packaged and sealed in a container, item 2 of Figs. 1 and 2. Water is added to a vessel, which rests on top of the sealed container, item 10. After the water drains into the vessel, the “vessel can thereafter be removed.” (Column 2, lines 11 to 29).

Moreover, the container in *Smith* contains two pet foods in which one food is positioned above the other food. The first food is packaged in the sealed container and the second food rests on top of the sealed container in the vessel.

Smith does not teach each and every element of Claims 1, 18 and 21. Therefore, Applicants respectfully submit that the rejection is improper and Claims 1, 18 and 21 are patently distinct over *Smith*. Additionally, Claim 5, depending directly from Claim 1, and Claims 22 and 23, depending directly from Claim 21 are allowable for the reasons given with respect to amended independent Claims 1 and 21.

Claims 13 to 16 are rejected under 35 U.S.C. § 102(b) as being anticipated by *Sobky*. Claims 13 and 16 also stand rejected under 35 U.S.C. § 102(b) as being anticipated by *Kornacki*. Claim 13 is the sole independent claim under this rejection. Claim 13 has been amended to clarify that the removal of the lids causes the two foods to mix.

Claim 13 relates to a container for serving pet food. The container for serving pet food includes a bowl. At least two different types of pet food are maintained within the bowl. The container includes a lid that seals to the bowl and maintains pet food freshness. A member extends from the lid for grasping and removing the lid from the bowl to allow the pet access and the two foods to mix.

Neither *Sobky* or *Kornacki* include the element of causing the two foods to mix by removal of the lid. Therefore, Applicants respectfully submit that the rejections have been overcome in light of the amendment to Claim 13. Accordingly, Claims 13 to 16 are patently distinct over *Sobky* and *Kornacki* and are allowable.

Claims 18 and 21 to 24 were rejected under 35 U.S.C. § 102(b) as allegedly being unpatentable over *Lepper*. Independent Claims 18 and 21 have been amended to clarify that the method for providing a pet food provides a single container housing separated first and second pet foods. Claims 18 and 21 have also been amended to clarify that the second pet food is in a substantially similar horizontal plane to the first pet food.

In contrast to Claims 18 and 21, the animal feeder in *Lepper* contains only a first pet food in the container, the chamber, item number 22, which includes the food container, item number 54. Water, allegedly the second food, is located in the reservoir. The reservoir, item number 27, is located in the cover of the container, item number 11. The cover of the container is on top of the container.

Claims 18 and 21 include, amongst other elements, a single container housing separated first and second pet foods. Additionally, the second pet food is in a substantially similar horizontal plane to the first pet food. The container includes a removable lid.

Lepper does not include the element of including two pet foods in a single housing. In *Lepper*, the second pet food is housed in the lid, not the container. *Lepper* also does not include the second pet food being in a substantially similar horizontal plane to the first pet food. Applicants respectfully submit that the rejections have been overcome in light of the amendments to Claims 18 and 21. Therefore, Applicants submit that Claims 18 and 21, as well as Claim 24 depending directly from Claim 21, are allowable.

In the Office Action, Claims 2, 4, 6 to 12, 13, 16, 17, 19 and 20 stand rejected under 35 U.S.C. § 103 in view of a number of references. Applicants respectfully submit that these obviousness rejections have been overcome or are not proper and therefore should be withdrawn for at least the reasons set forth below.

More specifically, Claims 2, 4, 7 to 11, 19 and 20 stand rejected under 35 U.S.C. § 103 as allegedly being unpatentable over *Smith* in view of *Davidson* and *Bosshard*. Claim 11 has been canceled. As discussed above, Claims 1 and 18 have been amended to clarify the container including pet food includes a single housing and that the second pet food is disposed in a substantially similar horizontal plane to the first pet food.

The food containers in *Smith* and *Davidson*, in contrast to food containers of Claims 2, 4, 7 to 11, 19 and 20 do not include a single container housing first and second pet foods. As mentioned above, *Smith* provides two separate housings for the pet foods. The pet food in *Smith* is packaged in sealed in a container. Water (allegedly the second pet food) is contained in a separate vessel which rests on top of the sealed container. *Davidson* provides a pet food container and a second container fixedly secured inside the lid. That is, the second container is attached to the lid of the housing, not to the housing itself.

Moreover, *Smith, Davidson* and *Bosshard* relate to a container in which two foods are separated in different chambers with one food positioned above the other food. Claims 2, 4, 7 to 10, 19 and 20 include the two pet foods being in a substantially similar horizontal plane.

Neither *Smith, Davidson*, or *Bosshard* teaches, discloses or suggests a pet food container or a method for manufacturing a pet food container including a single housing with a first pet food disposed within the housing and a second pet food disposed within the housing separated from the first pet food and in a substantially similar horizontal plane to the first pet food. Therefore, Applicants respectfully submit that the obviousness rejections have been overcome in light of the amendments to Claims 1 and 18 as claimed elements are not suggested. Applicants therefore respectfully submit these claims are patently distinct over *Smith* in view of *Davidson* in further view of *Bosshard* and are allowable.

Claim 3 stands rejected under 35 U.S.C. 103(a) as being unpatentable over *Smith* in view of *Kirkland*. Claim 3, depending directly from Claim 1, claims two pet foods in a single housing. As mentioned above, *Smith* includes a pet food and water in separate housings. *Kirkland* relates to a container that is sized and configured to be vendable. Neither *Smith* nor *Kirkland* includes or suggests a pet food container including a single housing with a first and second pet food disposed within the housing with the second pet food disposed separately from the first pet food and in a substantially similar horizontal plane to the first pet food. Therefore, even if combinable, the combination of *Smith* and *Kirkland* does not result in the claimed pet food container. Applicants therefore respectfully submit that the rejection for Claim 3 is improper and Claim 3 should be allowed.

Claim 6 stands rejected under 35 U.S.C. of *Smith* in view of *Geitner*. The Office Action relies on *Geitner* as evidence of the conventionality of providing either dry or semi-dry pet food with water in the same housing.

Geitner relates to an food storage container made from edible material which the animal may consumer at each feeding. The feeding container may be prepackaged with a selected quantity of food therein. Additional water container means may be packaged therewith for providing a disposable water container in conjunction with the meal. *Geitner* does not disclose a single housing with a first and second pet food disposed within the housing where the second pet food is separate from the first.

The pet food containers of neither *Smith* nor *Geitner* includes or suggests a single housing with a first pet food disposed within the housing and a second pet food disposed within the housing separated from the first pet food and in a substantially similar horizontal plane to the first pet food. Therefore, their combination will not result in the claimed pet food container. Accordingly, Applicants submit that the rejection of Claim 6 is improper and Claim 6 is allowable. Claim 6 is patently distinguished over *Smith* in view of *Geitner* and Applicants respectfully request that this rejection be withdrawn.

Claims 13, 16 and 17 stand rejected under U.S.C. 103(a) as being unpatentable over *Foreman* in view of *Kornacki*. Neither *Foreman* nor *Kornacki* includes or suggests the claimed element of causing at least a portion of the foods to mix when the lid is removed. Therefore, their combination does not result in the claimed pet food container in which at least a portion of the two foods mix. Accordingly, Applicants submit that in view of the amendment to Claim 13, that the rejection of Claims 13, 16 and 17 has been overcome. Claims 13, 16 and 17 are therefore patently distinguish over *Foreman* in view of *Kornacki* and Applicants respectfully request that this rejection be withdrawn.

Claim 12 stands rejected under 35 U.S.C. 103(a) as being unpatentable over *Smith* in view of *Lilley*. Neither *Smith* nor *Lilley* teaches, discloses or suggests a pet food container including a single housing with a first pet food disposed within the housing and a second pet food disposed within the housing separated from the first pet food and in a substantially similar horizontal plane to the first pet food. Accordingly, Applicants submit that in view of the amendment to Claim 1, the rejection of Claim 12 has been overcome. Applicants therefore respectfully request that this rejection be withdrawn.

For the foregoing reasons, Applicants respectfully request reconsideration of their patent application and earnestly solicit an early allowance of same.

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